IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSEY CRISOSTOMO, Plaintiff, v. CHARTWELL STAFFING SERVICES, INC., d/b/a CHARTWELL STAFFING SOLUTIONS, TRACEY L. SCHNEIDER-KIDAN and ADAM KIDAN, Defendants.	)	Case No: 1:16-cv-6406 Honorable John Z. Lee

DEFENDANTS TRACEY L. SCHNEIDER-KIDAN AND ADAM KIDAN'S
MOTION TO DISMISS PURSUANT TO RULE 12(b)(2) & 12(b)(6)

Defendants Tracey L. Schneider-Kidan, and Adam Kidan (collectively, the "Individual Defendants"), by and through their undersigned attorneys, move the Court to dismiss Plaintiff Josey Crisostomo's Complaint for lack of personal jurisdiction pursuant to Rule 12(b)(2) and failure to state a claim pursuant to Rule 12(b)(6). In support of this motion, the Individual Defendants state as follows:

1. Plaintiff is a former employee of Defendant Chartwell Staffing Services, Inc. d/b/a Chartwell Staffing Solutions ("Chartwell"). On April 20, 2015, Plaintiff signed an Employment Agreement with Chartwell. (Compl. at ¶ 7, Ex. A, Empl. Agmt.)

2. On June 21, 2016, Plaintiff filed a two-count Complaint asserting that the Defendants violated the Illinois Wage Payment & Collection Act ("IWPCA"). 820 ILCS 115/1, *et seq.* In Count I, Plaintiff asserts that Defendants violated the IWPCA by failing to pay the Plaintiff "commissions" and "profit sharing" pursuant to the terms of his Employment Agreement. (Compl. at ¶ 18.) In Count II, Plaintiff asserts that Defendants unlawfully terminated his employment in

retaliation for complaining about the purportedly unpaid commissions in violation of the IWPCA. 820 ILCS 115/14(c).

3. The Court should dismiss Plaintiff's claims against the Individual Defendants pursuant to Rule 12(b)(2) because they have insufficient minimum contacts with the state of Illinois to be subject to the jurisdiction of this Court and also because they are protected by the fiduciary-shield doctrine.

4. The Court also should dismiss Plaintiff's claims against the Individual Defendants pursuant to Rule 12(b)(6) because the Individual Defendants were not Plaintiff's "employers" as defined by the IWPCA, and the Complaint does not allege any other basis to subject the Individual Defendants to personal liability with respect to its IWPCA claims against Chartwell.

5. The Individual Defendants are contemporaneously filing a Memorandum in support of this motion, which they incorporate by reference herein.

WHEREFORE, Defendants Tracey L. Schneider-Kidan and Adam Kidan hereby move this Court for the entry of an order dismissing Plaintiff Josey Crisostomo's Complaint for lack of personal jurisdiction and failure to state a claim pursuant to Rule 12(b)(2) & 12(b)(6), and granting such other relief as the Court deems equitable and just.

Respectfully submitted,

TRACEY L. SCHNEIDER-KIDAN and
ADAM KIDAN

By: */s/ Matthew P. Tyrrell*
One of Their Attorneys

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